

## **REMARKS**

### **Summary**

This response is in reply to the Office Action mailed September 20, 2007. Applicants have currently canceled claims 5-6, 44, 47, and 50. Applicants have also amended claims 1, 11, and 37 to include the subject matter of the canceled claims. Claims 7-8, 10, 45-46, 48-49, and 52 have been amended for proper dependency and proper antecedent basis.

No new matter has been entered as a result of these amendments. Claims 1, 4, 7-8, 10-11, 13-15, 17-20, 37-38, 40, 42-43, 45-46, 48-49, and 52 are currently pending.

### **Canceled Claims 5-6, 44, 47, and 50**

In this reply, Applicants have canceled claims 5-6, 44, 47, and 50. Accordingly, the rejections against these claims have been rendered moot. Hence, Applicants respectfully request withdrawal of the rejections against these claims.

### **Claims 1, 4, 7-8, 10-11, 13-15, 17-20, 37-38, 40, 42-43, 45-46, 48-49, and 52: Rejections Under 35 U.S.C. § 103(a)**

Claims 1, 4, 7-8, 10-11, 13-15, 17-20, 37-38, 40, 42-43, 45-46, 48-49, and 52 have been rejected under 35 U.S.C. § 103(a). Applicants respectfully traverse the rejections as to claims 1, 4, 7-8, 10-11, 13-15, 17-20, 37-38, 40, 42-43, 45-46, 48-49, and 52 in view of the following remarks and arguments. In particular, Applicants respectfully submit that amended claims 1, 11, and 37 are allowable over the applied references and that because amended claims 1, 11, and 37 are allowable, the claims that depend therefrom are also allowable.

#### **A. Claims 1, 4, 7-8, and 10**

Claim 1 has been amended to recite the subject matter of now canceled claims 5-6 and 44. In particular, claim 1 has been amended to include, *inter alia*, "displaying

an on-screen query of optional modifications to the replacement advertising segment,” “receiving a viewer selection of at least one modification to the first replacement advertising segment,” “rendering the at least one modification to the first replacement advertising segment,” “retaining the viewer selection of the at least one modification to the first replacement advertising segment as part of the viewer profile,” and “automatically applying the previously received viewer selection of the at least one modification to a second replacement advertising segment that is received after the first replacement advertising segment.” In addition, support for this amendment can be found throughout the application as filed, and in particular, at pages 9-10. None of the applied references, alone or in combination, teach or suggest retaining a viewer selection of at least one modification and automatically applying the previously received viewer selection of the at least one modification to a second replacement advertising segment that is received after a first replacement advertising segment.

The subject matter included in amended claim 1 was previously recited in claims 5-6 and 44. Claims 5-6 and 44 were rejected in the current Office Action under 35 U.S.C. § 103(a) in view of the references currently applied against unamended claim 1 and in further view of Haas *et al.* (U.S. Pat. App. Pub. No. 2002/0063714). Hence, by admission in the Office Action, the applied references (Akiyama *et al.* in view of Reynolds *et al.* in further view of Blackketter *et al.* and in further view of Alexander *et al.*) do not teach or suggest all of the features of amended claim 1. Even with the addition of Haas *et al.*, the Applicants respectfully submit that the applied references do not teach or suggest all of the features of amended claim 1.

Haas *et al.* is generally directed to two different types of software programs: 1) a software program used as a player file to enable a user to interact with an advertised object displayed in a movie on a monitor; and, 2) an authoring software program that allows a developer to create movies for the user in which the user may interact with the advertised object. (Haas *et al.*, ¶0103). However, neither software program teaches or suggests all of the features of amended claim 1 and do not make up for the deficiencies of the previously applied references.

With regard to the first software program with a player file and user interaction, Haas *et al.* merely describes that a user may interact with a control element to change an aspect of an object advertised in a display area, such as the color of the object. (*Id.* at ¶0128). However, Haas *et al.* does not describe that the player file retains the user's interaction with the displayed object nor does Haas *et al.* describe that the player file automatically applies the user's interaction with the displayed object to a subsequently received movie. Moreover, Haas *et al.* does not even mention that a user profile exists with the player file, let alone developing the user profile based on interactions with the displayed object. Moreover, Haas *et al.* seems to imply that contemporaneous user interaction is required to apply a modification to a movie each time a movie is downloaded to a user and not that the modification is automatically applied when a second movie is received. (*Id.* at ¶0127). In contrast, the features of amended claim 1 are directed to developing a viewer profile by receiving a second replacement advertising segment after a first replacement advertising segment and automatically applying a previously retained viewer selection of at least one modification to the second replacement advertising segment. The player file of Haas *et al.* is simply technically deficient with regard to the features of amended claim 1.

With regard to the second software program, Haas *et al.* generally describes an authoring software program that a developer uses to create movies and to embed control elements for interacting with those movies. (*Id.* at ¶0103). Haas *et al.* teaches that the control elements created by the developer may be used by a user to manipulate and select images appearing in a display area when the player file is opened. (*Id.* at ¶0119). In other words, Haas *et al.* teaches that the modifications made by a developer are for a current movie for use by a user and not that the modifications made by a developer are automatically applied to a later movie. In contrast, claim 1 is directed to the features of developing a viewer profile by receiving a second replacement advertising segment after a first replacement advertising segment and automatically applying a previously retained viewer selection of at least one modification to the second replacement advertising segment. Moreover, the authoring program is not

directed to developing a viewer profile. The authoring program of Haas *et al.* is simply technically deficient with regard to the features of amended claim 1.

Accordingly, Haas *et al.* does not make up for the deficiencies for the previously applied references in view of amended claim 1. Hence, amended claim 1 is allowable over the previously applied references in view of Haas *et al.* As claim 1 is allowable, claims 4, 7-8, 10, and 45-46 are also allowable.

## **B. Claims 11, 13-15, and 17-20**

Independent claim 11 has been amended to recite the subject matter of now canceled claim 47. In particular, claim 11 has been amended to include, *inter alia*, “displaying an on-screen query of optional modifications to the first replacement advertising segment,” “receiving a viewer selection of at least one modification to the first replacement advertising segment,” “rendering the at least one modification to the first replacement advertising segment,” “retaining the viewer selection of the at least one modification to the first replacement advertising segment as part of the viewer profile,” and, “automatically applying the previously retained viewer selection of the at least one modification to a second received replacement advertising segment that is selected after the first replacement advertising segment.” In addition, support for this amendment can be found throughout the application as filed, and in particular, at pages 9-10. None of the currently applied references teach or suggest retaining a viewer selection of at least one modification and automatically applying the previously retained viewer selection of the at least one modification to a second replacement advertising segment that is selected after the first replacement advertising segment.

The subject matter included in amended claim 11 was previously recited in claim 47. Claim 47 was rejected in the current Office Action under 35 U.S.C. § 103(a) in view of the references currently applied against unamended claim 11 and in further view of Haas *et al.* Hence, by admission in the Office Action, the previously applied references (Akiyama *et al.* in view of Reynolds *et al.* in further view of Blacketter *et al.* and in further view of Alexander *et al.*) do not teach or suggest all of the features of amended claim 11. Even with the addition of Haas *et al.*, the Applicants respectfully submit that

the applied references still do not teach or suggest all of the features of amended claim 11, and in particular, do not render obvious the feature of retaining a viewer selection of at least one modification and the feature of automatically applying the previously retained viewer selection of the at least one modification to a second replacement advertising segment that is selected after the first replacement advertising segment.

As previously discussed with reference to claim 1, Haas *et al.* merely teaches that a developer may use authoring software to create control elements for a user to manipulate and select images appearing in a display area when a player file is opened (*Id.* at ¶0119), and that a user may interact with the control element of the player file to contemporaneously change an aspect of an object advertised in a display area, such as the color of the object (*Id.* at ¶0128). However both the authoring software and the player file are technically deficient in comparison to the features recited in amended claim 11. Haas *et al.* is simply silent that either the player file or the authoring software develop a viewer profile by selecting a second replacement advertising segment after a first replacement advertising segment and automatically applying a previously retained viewer selection of at least one modification to the second replacement advertising segment. Moreover, Haas *et al.* does not even mention that a user profile exists with the either the player file or the authoring file, let alone developing a user profile based on interactions with the displayed object.

Accordingly, Haas *et al.* does not make up for the deficiencies for the previously applied references in view of amended claim 11. Hence, amended claim 11 is allowable over the previously applied references in view of Haas *et al.* As claim 11 is allowable, claims 13-15, 17-20, and 48-49 are also allowable.

**C. Claims 37-38, 40, 42-43, 45-46, 48-49, and 52**

Independent claim 37 has been amended to recite the subject matter of now canceled claim 50. In particular, claim 37 has been amended to include, *inter alia*, that the first memory storage is further operative to retain the viewer selection of the at least one modification to the first animated video replacement advertising segment as part of the viewer profile used in selecting the first animated video replacement advertising

segment, and that the processor is further operative to automatically render the at least one previously received modification retained by the first memory storage to a second animated video replacement advertising segment that is selected after the first animated video replacement advertising segment. In addition, support for this amendment can be found throughout the application as filed, and in particular, at pages 9-10. None of the currently applied references teach or suggest these features.

The subject matter included in amended claim 37 was previously recited in claim 50. Claim 50 was rejected in the current Office Action under 35 U.S.C. § 103(a) in view of the references currently applied against unamended claim 37 and in further view of Haas *et al.* Hence, by admission in the Office Action, the previously applied references (Akiyama *et al.* in view of Reynolds *et al.* in further view of Blackketter *et al.* and in further view of Alexander *et al.*) do not teach or suggest all of the features of amended claim 37. Even with the addition of Haas *et al.*, the applied references still do not teach or suggest all of the features of amended claim 37, and in particular, do not render obvious the features that the first memory storage is further operative to retain the viewer selection of the at least one modification to the first animated video replacement advertising segment as part of the viewer profile used in selecting the first animated video replacement advertising segment, and that the processor is further operative to automatically render the at least one previously received modification retained by the first memory storage to a second animated video replacement advertising segment that is selected after the first animated video replacement advertising segment.

As previously discussed with reference to claims 1 and 11, Haas *et al.* merely teaches that a developer may use authoring software to create control elements for a user to manipulate and select images appearing in a display area when a player file is opened (*Id.* at ¶0119), and that a user may interact with the control element of the player file to contemporaneously change an aspect of an object advertised in a display area, such as the color of the object (*Id.* at ¶0128). Haas *et al.* is simply silent that either the player file or the authoring software have a first memory storage operative to retain the viewer selection of the at least one modification to a first animated video replacement advertising segment as part of the viewer profile used in

selecting the first animated video replacement advertising segment or a processor operative to automatically render the at least one previously received modification retained by the first memory storage to a second animated video replacement advertising segment that is selected after the first animated video replacement advertising segment. Moreover, Haas *et al.* does not even mention that a user profile exists with the either the player file or the authoring file, let alone a multimedia controller operative to develop a user profile based on the operations of the first memory storage and the processor.

Accordingly, Haas *et al.* does not make up for the deficiencies for the previously applied references in view of amended claim 37. Hence, amended claim 37 is allowable over the previously applied references in view of Haas *et al.* As claim 37 is allowable, claims 38, 40, 42-43, and 52 are also allowable.

## **Conclusion**

Therefore, in view of the above amendment and remarks, Applicants respectfully submit that this application is in condition for allowance and such action is earnestly requested.

If for any reason the Examiner is not able to allow the application, he is requested to contact the Applicants' undersigned attorney at (312) 321-4200.

Respectfully submitted,

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